

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

NC-WC LP,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 3:06-cv-440-WKW-SRW
)	
DAVID STIVARIUS, MALISSA)	
ADELL LEE, DELTA PROPERTIES,)	
ALAN K. FLEMING)	
and UNITED STATES DEPT. OF)	
TREASURY - INTERNAL REVENUE)	
SERVICE,)	
)	
Defendants.)	

RESPONSE TO ORDER

Comes now Defendant Internal Revenue Service, by and through Leura G. Canary, United States Attorney and files the following response to the Court's January 9, 2007 Order:

Defendant respectfully requests that the last sentence of the proposed Order for Entry of Judicial Foreclosure be changed to read, in pertinent part, "and interplead into this Court any excess funds received for disbursement by this Court in accordance with the priorities as [established under federal law.]" See, Litton Indus. Automation Systems, Inc. v. Nationwide, 106 F.3d 366, 371(11th Cir. 1997) ("Federal law, not state law, governs a priority contest between a security interest and a federal tax lien.").

Otherwise, the Defendant has no objection to the entry of the proposed order of judicial foreclosure.

Respectfully submitted this 23rd day of January, 2007.

LEURA G. CANARY
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing upon all interested parties by mailing a copy of same, first class, postage prepaid, addressed as follows:

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Dated this the 23rd day January, 2007.

s/R. Randolph Neeley
Assistant United States Attorney